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Attorneys for Respondent

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

RUBEN E. VASQUEZ,

Petitioner,

v.

THOMAS FELKER, Warden,

Respondent.

C 07-4250 WHA (PR)

**ANSWER TO PETITION FOR
WRIT OF HABEAS CORPUS**

Respondent hereby provides this answer to the petition for writ of habeas corpus and order to show cause.

I.

CUSTODY

Petitioner is a state prisoner lawfully in state custody pursuant to his conviction in the California superior court for first degree murder with special circumstances.

1 **II.**

2 **PROCEDURAL ISSUES**

3 Petitioner has exhausted state remedies by presenting his claims to the California
4 Supreme Court. The petition is timely within the meaning of 28 U.S.C. § 2244.

5 **III.**

6 **DENIAL OF CLAIMS**

7 Respondent denies petitioner's claims on the merits.

8 **IV.**

9 **INCORPORATION BY REFERENCE**

10 Respondent hereby incorporates by reference the accompanying memorandum of
11 points and authorities in support of this answer.

12 **V.**

13 **AVAILABLE STATE RECORDS**

14 Respondent is lodging as exhibits in support of this answer the following relevant
15 portions of the state records: Clerk's Transcript on Appeal (Exhibit 1), Reporter's Transcript on
16 Appeal (Exhibit 2), Juror Questionnaires (Exhibit 3), Appellant Vasquez's Opening Brief on
17 Appeal (Exhibit 4), Appellant Le's Opening Brief on Appeal (Exhibit 5), Respondent's Brief on
18 Appeal (Exhibit 6), California Court of Appeal Opinion (Exhibit 7), Petition for Review to the
19 California Supreme Court (Exhibit 8), California Supreme Court Docket Sheet (Exhibit 9).

20 **VI.**

21 **CONCLUSION**

22 Respondent respectfully requests that the petition for writ of habeas corpus be denied.
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1 Dated: October 29, 2007

2 Respectfully submitted,

3 EDMUND G. BROWN JR.
Attorney General of the State of California

4 DANE R. GILLETTE
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11 Deputy Attorney General
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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: *Vasquez v. Felker*

No.: C 07-4250 WHA (PR)

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.


On October 29, 2007, I served the attached (1) **ANSWER TO PETITION FOR WRIT OF HABEAS CORPUS**; (2) **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF ANSWER TO PETITION FOR WRIT OF HABEAS CORPUS**; (3) **NOTICE OF LODGING OF, AND INDEX TO, EXHIBITS** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

**Ruben Vasquez
T-95390/ C1-116 U
High Desert State Prison
P.O. Box 3030
Susanville, CA 96127-3030**

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on October 29, 2007, at San Francisco, California.

Susan Chiang

Declarant



Signature